

ROAD PRESERVATION LAW

TOWN OF BERKSHIRE

ROAD PRESERVATION LOCAL LAW

April 19, 2005

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SECTION I: PURPOSE

The purpose of this law is to maintain the safety and general welfare of Town residents by regulating commercial activities that have the potential to adversely affect road right-of-ways.

Well maintained roads are important to the economic well being of the Town. Commercial endeavors, such as timber harvesting and mining, are also economically beneficial. This law is not intended to regulate such business: the intent is to protect the public right-of-ways from damage. The Town Board of the Town of Berkshire hereby enacts the following Road Preservation Local Law pursuant to the provisions of the Municipal Home Rule Law”.

SECTION II: APPLICABILITY

The Berkshire Town Board delegates to the Berkshire Highway Superintendent the oversight of assuring commercial activities do not have an adverse impact on public right-of-ways.

SECTION III: DEFINITIONS

1. *Specific Contracted Activity:* Commercially contracted activities between Town landowners and commercial contractors that could impact Town road right-of- ways.
2. *Bond:* A commercial bond to ensure that the condition of the town roads impacted by the job is left in as good or better condition at the completion of the job as they were at the start of the job.
3. *Road Preservation Local Law Worksheet (Appendix A):* Worksheet is to be completed by the owner or contractor, summarizing the job, site location, start and completion dates, expected max gross vehicle weight used for the contract, and any other items that the Town Highway Superintendent deems necessary.
4. *Preliminary Bond Release:* A bond release given by the Town Highway Superintendent based on satisfactory job site status at job completion.
5. *Final Bond Release:* Final release of the Bond by the Berkshire Town Board.

SECTION IV: GENERAL PROVISIONS

1. Prior to the start of any contracted activity that could have an impact on Town right-of-ways, a permit must be obtained. A bond amount shall be determined by the Town Board and will be listed on the fee schedule on file with the Berkshire Town Clerk. The amount of the bond may be changed by the Town Board by Resolution. A completed *Road Preservation Local Law (RPLL) Worksheet (Attachment A)*, available from the Town Clerk or Town Highway Superintendent, must be submitted to the Highway Superintendent.

2. The Highway Superintendent will decide if the scope of work is such that a Bond is required. If no Bond is needed, the RPLL worksheet is approved by the Superintendent and becomes the Work Permit.

3. If the Highway Superintendent determines that a Bond is required, the bond must be paid to the Town of Berkshire and remitted to the Town Supervisor. The Worksheet will then be approved by the Highway Superintendent and becomes the Work Permit.

4. Upon completion of the contract, the contractor will apply to the Highway Superintendent for a Preliminary Bond Release. Upon inspection of the work site, as necessary, the Highway Superintendent may approve the release of the Bond. If the release is not approved, the Superintendent will specifically document the tasks that must be accomplished in order for the Bond to be released. In this case, the Contractor will remedy the specified problem(s) items and then reapply for a Bond Release. Final Bond Release must be approved by the Town Board for repayment of the Bond funds.

5. If contractor does not comply and operates outside the parameters as specified on the worksheet, any law enforcement officer or Code Enforcement Officer has the authority to shut down the operation.

6. The landowner will be responsible for the repair of any damages that occur to the Town of Berkshire road right-of- ways, *when a project proceeds without a proper permit.*

SECTION V: FEE

A non-refundable processing fee as depicted in the Town of Berkshire Fee Schedule, payable to the Town of Berkshire, must accompany each Worksheet submitted to the Highway Superintendent.

SECTION VI: APPEALS

Contractor has the right to appeal to Berkshire Town Board.

SECTION VII: REQUEST FOR VARIANCE

Request for a variance from the standards set forth in this Local Law shall be made to the Berkshire Town Board in writing and shall contain the grounds on which the appellant relies for requesting the variance, including allegations on any facts on which the appellant will rely.

Where the Berkshire Town Board finds that due to special circumstances of the particular case a waiver of certain requirements as stated in Section IV is justified, then a variance may be granted. No variance shall be granted, however, unless the town Board finds and records in its minutes that: (a) granting the variance would be keeping the intent and spirit of this Local Law and is in the best interests of the community, (b) there are special circumstances involved in the particular case; (c) denying the variance would result in undue hardship to the applicant, provided that such hardship has not been self-imposed; (d) the variance is the minimum necessary to accomplish the purpose.

SECTION VIII: INVALID SEGMENT

Should any section or provision of this Local Law contained herein or as amended hereafter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Local Law as a Whole or any part thereof-other than the part declared to be invalid.

SECTION IX: EFFECTIVE DATE

This Local Law shall take effect upon filing with the State of New York.

ATTACHMENT A

ROAD PRESERVATION LAW WORKSHEET

1-Landowner: _____

Address: _____

Phone: _____

2-**Work Description** (logging, gravel mining, etc.): _____

Work Location: _____

3-**Contractor:** _____

Address: _____

Phone: _____

4-**Start Date:** _____

Completion Date: _____

Expect maximum gross vehicle weight : _____

5-**Bond Amount:** _____ **Date Paid:** _____

Approval: _____ **Date:** _____

Berkshire Hwy Superintendent

6-**Preliminary Bond Release Application Date:** _____

7-**Defincies to be repaired:** _____

8-**Final Bond Release Application Date:** _____

9-**Final Bond Release:** _____ **Date:** _____

Berkshire Town Supervisor